IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRIMINAL REVISION NO.2429 OF 2005

DATE OF DECISION: APRIL 18, 2007

N.K.Gupta, Manager, State Bank of India.

.....Petitioner

VERSUS

Arun Kumar Aggarwal and others.

....Respondents

CORAM:- HON'BLE MR.JUSTICE RANJIT SINGH

1. **Whether Reporters of local papers may be allowed to see the judgement?**
2. **To be referred to the Reporters or not?**
3. **Whether the judgment should be reported in the Digest?**

PRESENT: Mr. Vijay Sharma, Advocate,
for the petitioner.

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RANJIT SINGH, J.

State Bank of India, being aggrieved against the order discharging the respondents, who were summoned and charged for the offences under Sections 418, 420, 467, 468, 471, 120-B IPC, has filed this revision petition through its Manager, N.K.Gupta.

The facts, in brief, would show that loan amounting of Rs.2,96,00,000/- was sanctioned to M/s Haryana Equipments Limited by State Bank of India. Sh.B.M.Singh, Chief Manager of the Bank filed a complaint against respondent No.1 and proprietors of the said firm, respondent Nos.2 and 3 with the allegation that bills were submitted by them showing the goods supplied by M/s A.B.Corporation and M/s Harinee Commercial Corporation Pvt. Ltd., which were located at Jind, whereas goods worth Rs.47,91,050/- were

despatched from Calcutta to Jind, which the bank had credited into its account. From this, the allegations were made that the respondents-accused submitted documents with regard to the goods, which were not manufactured by the accused firm and bank was dishonestly induced to part with the payment. After recording the evidence of the complainant, B.M.Singh and that of Basant Kumar Goyal and R.A.Nagpal, the respondents-accused were summoned. Certain witnesses were examined at the pre-charge stage and some documents were also produced. The respondents-accused were accordingly summoned and charge-sheeted for the offences already noticed above.

The respondent-petitioner filed a revision against the said order. It was submitted that B.M.Singh was not authorised to file the complaint. This contention, however, did not find favour with the court on the ground that Board of Directors had authorised B.M.Singh to file the present complaint. It was then urged that Arun Kumar Aggarwal, respondent No.1, had not been sued as a Managing Director and rather had been arrayed in his individual capacity. It was also pleaded that the Company, on whose name the loan had been sanctioned, had also not been impleaded in the complaint nor was he shown to be a Manager or proprietor or a Director of the firm. Submission was that Arun Kumar Aggarwal could not be impleaded as a party in his individual capacity and it was the firm, which could be alleged to have cheated the bank and as such, it was required to be impleaded. Besides it was also submitted that case filed as FIR No.221 of 1992 under Sections 420, 467, 468 IPC at Police Station Ambala Cantt. in this regard has

already been cancelled and a civil suit for recovery of the amount, which had been filed, stood decreed. Reference was made to ***Rameshchandra Manilal Kotia Vs. State of Gujarat,*** 1998 (3) Recent Criminal Reports 458 (Gujarat), ***NTC Limited, Indore and others Vs. Mohan Singh Sisodia,*** 2003 (1) Criminal Court Judgments 182 (Madhya Pradesh), ***G.V.Devasahayam Vs. State of Haryana,*** 2002 (2) Recent Criminal Reports 792 and ***M/s Hindustan Pulverising Mills Vs. State of Punjab,*** 2002 (1) Criminal Court Judgments 79 (P&H) in support of the submission. The revision stands allowed and respondent-Arun Kumar Aggarwal has been discharged which is now impugned through present revision petition.

Learned counsel appearing for the petitioner could not dispute the fact that respondent No.1-Arun Kumar Aggarwal has neither been impleaded as a Director, Managing Director or proprietor of the firm. The counsel also could not contest the fact that the loan was advanced to a Company, which was not impleaded as respondent or accused in this case. The counsel could not advance any ground to enable the Bank to maintain the complaint and the present proceedings against respondent No.1 in the absence of the firm/Company, which actually was the recipient of this loan amount. He also could not distinguish the judgment referred to and relied upon by the revisional Court. Since respondent No.2 had not received any loan from the complainant-Bank in his individual capacity and has not been impleaded in any capacity as a Managing Director, Director or Proprietor of the firm, it would be difficult to

fasten liability on him in individual capacity. I do not see any infirmity in the order passed by the revisional Court, and the same does not call for any interference.

The present revision is accordingly dismissed in limine.

April 18,2007 **(RANJIT SINGH)**
khurmi **JUDGE**